complains, and leave untouched the rule at common law which after the half-century of conflict (if one may borrow the expression) following *Irons* v. *Smallpiece* (3 B. & Ald. 551) is, there is reason to hope, at last settled.

THE VALUE OF HONEST INTENTIONS. In *Nash* v. *Minnesota Title & Insurance Co.* (40 N. E. R. 1039), an action of deceit, a majority of the Supreme Judicial Court of Massachusetts decided that a defendant who had written a letter reasonably to be understood as warranting a title, might show that the letter was intended to convey another meaning. In this opinion the majority follows *Derry* v. *Peek*, 14 App. Cas. 337 (noted in 3 HARVARD LAW REVIEW, 231). Field, C. J., and Holmes, J., dissented, arguing, as does Sir Frederick Pollock in 5 Law Quar. Rev. 410, that a man should be bound by a reasonable interpretation of his words when he knows others will act upon them. Though not cited by the Court, a *dictum* in *Litchfield* v. *Hutchinson*, 117 Mass. 195, also appears to support this view.

There seems little doubt that the decision of the majority is right on historical grounds, but whether it is in thorough touch with the trend of the law, is a dubious question. The present tendency certainly seems to be in favor of requiring moral fraud for deceit, on the ground that it is hard to subject the honest giver of gratuitous information to the determination of the jury as to its good sense; yet in the case of a gratuitous bailee more than mere honesty is required, and the two cases are not easily distinguishable. The ground of the decision, therefore, probably lies as much as anywhere in the greater hesitation of the courts to give security to the seeker of information than to the possessor of property rights.

RETREATING TO THE WALL.— *Beard* v. *United States*, 15 Sup. Ct. Rep. 962, is a recent case which has perhaps attracted more attention than its actual decision warrants. The defendant was feloniously assailed and killed his man without "retreating to the wall." The substance of the charge in the court below was that if he could have avoided taking life by getting out of the way, he was guilty of manslaughter. On error, this charge, which takes no account of what may have reasonably appeared necessary to the prisoner at the time of the killing, was very naturally held erroneous by the Supreme Court, and the judgment reversed.

On the facts of the case the decision seems unexceptionable; namely, that when a man is murderously assaulted, he need not pause and speculate as to whether retreat would be safe and expedient, but is entitled to meet the attack with such force as he honestly believes, and has reasonable ground to believe, is necessary to save his life or protect himself from serious injury. It is the *dicta* in Mr. Justice Harlan's opinion, however, which, although quite unnecessary to the decision, have attracted such wide attention. Their general purport is that in case of a *felonious* assault the doctrine of retreating to the wall does not apply. On this point the Court shows a leaning toward the view held by Bishop and Wharton and other dissenters from the old doctrine of the common law. Nevertheless, the earlier view, supported by equal authority, seems more consistent with principle. Resistance to an assault, where life is not involved, may be allowed in kind; but killing to prevent a felony, in this as in other cases, should be justifiable only where no other reasonable